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1860

SPEECH  
OF  
HON. L. T. WIGFALL, OF TEXAS,  
ON THE  
MOTION TO PRINT EXTRA COPIES OF THE PRESIDENT'S MESSAGE.

DELIVERED IN THE SENATE OF THE UNITED STATES, DECEMBER 5, 1860.

MR. PRESIDENT: I propose, as the debate has been opened upon this question, not to give my views *in extenso*, but very briefly to comment upon some matters that have fallen from Senators on both sides of this Chamber. I am induced particularly to do so in consequence of what has fallen from the Senator from Georgia. He and I do not understand the Constitution in the same way; and he and I do not look at the great issues that are now pending, and which are soon to be precipitated upon the country, from the same stand-point. If I believed that the act of secession was one of revolution, that it was one in direct conflict with the Constitution of the United States that I am sworn to obey, I should hesitate much before I would utter such sentiments as I am in the habit of uttering, and before I would advise such action as I am in the habit of advising—I mean to those who ask my opinions.

I regret very much the character of the message which we have now under discussion; not upon the ground that the Senator from New Hampshire predicates his objections—that it is neither one thing nor the other; but for the, to me, more satisfactory reason that it is both one thing and the other. It is difficult for men who have no well-defined ideas upon subjects which they undertake to discuss, to discuss them so that they can correctly be understood. In this country, within a few years past, there has been shed a flood of light upon the form of government under which we are living, which those who came from another generation, and belong to another age, I fear, have not imbibed. There are antediluvians, and then there are some who did not live before the flood; but I suppose they might be called post diluvians, probably paulo-post diluvians a very short time after it, and they seem not to have progressed.

Now, sir, it is a historical fact that the journals of the convention, for some reason or other, were a sealed book until about 1820. We discussed—I mean those who went before us—the Constitution without the light which was necessary to give meaning to its different clauses. Subsequently to that time the Constitution has been better understood, because the journals of the convention have been published. The controversy in 1832 threw a flood of light upon this question; and in 1852, the Democratic party at Baltimore adopted the Kentucky and Virginia resolutions, with Mr. Madison's report, as their text and creed. No man who professes to believe those doctrines can deny the sovereignty of the States. No man who professes to believe those doctrines can deny that the Constitution is a compact between States. No man who admits that that Constitution is a compact, as it is called in the second Kentucky resolution, under the style and title of a Constitution for the United States, to which each State has acceded as a State, can deny that the States are the judges in the last resort of the meaning of that compact; and no man who ad-

mits that the Constitution is a compact between States, to which each State acceded as a State, can deny the right to secede, whenever any State sees fit. To talk of secession, therefore, being a revolutionary right, is to use terms with a looseness and want of signification, a want of accuracy, that renders discussion upon such a question utterly impossible between men who use these terms with definite meanings and those who use them vaguely.

Now, sir, if you admit that the individuals who live between the two oceans, and between the Gulf and the lakes, do not compose a single political community, that they are not a State, but that those individuals who live within these limits are States, separate, distinct, political communities, that they have ratified a compact which is binding between them, then at once you introduce the law of nations as the rule for construing that compact. When political communities, when nations, when States, enter into compacts with each other, the effect is to bind all their citizens. When the State of Texas ratified the Constitution of the United States, it was a matter of not the slightest importance whether I or any other citizen of that State approved or disapproved of the ratification. We were bound by it. *Eo instanti* the laws of the United States became operative within the limits of that State, and we were bound to obey those laws. Why? Because the political power of the State of Texas had ratified that Constitution; because she had become one of the States of the Union; and because, by the sixth article of the Constitution, that Constitution and the laws made in accordance with it were the supreme law of the land. When Texas, in her sovereign capacity, when the political power which made this compact shall revoke the ratification, the laws of the United States cease there to operate, and the citizens of Texas cease to owe any obedience to the laws of the United States. Why? Because the laws of the United States extend over the limits of the United States, and she having ceased to be one of the States of this Union, of course the operation and effect of those laws stop at her limits. These are plain propositions which those who call themselves Democrats profess, and those who are Democrats believe.

Then, to talk of secession being a revolutionary right, is, in my opinion—well, I will not use an epithet—it is not logical; it is using the term in a sense in which it can never be used by lawyers.

Has a State the right to withdraw without cause? Has a State the right to withdraw with cause? I say that it is a matter of not the slightest consequence whether there be cause or not. Each State must act for herself, and upon her own responsibility; and the only thing in the message of the President which he says cannot be done, is the only thing that I believe can be done by this Government when a State has withdrawn, and that is, to declare war. By the Constitution of the United States the Federal Government has the right to declare war. We can to-day declare war against England, or against any of the great European powers. There is no cause for declaring war; but suppose we declare it: war exists; letters of marque and reprisal can be issued; their commerce can be cut up; their towns can be burned, and their forts bombarded. Who can prevent it? There is the question. Suppose that Great Britain and the United States put each a different construction upon one of their treaties: the right or the wrong does not alter the fact. The United States Government can this day revoke the ratification of any treaty between her and Great Britain. If she does revoke the ratification of that treaty, that treaty ceases to be binding between the United States and Great Britain, and every citizen of the United States is released from any obligation to obey any single stipulation or article in that treaty. If we, without cause, were



to-day to revoke a treaty between this country and England, or any other power, there is no court in England, or any other power with whom we had revoked that treaty, that would not hold at once that every citizen of the United States was released from any obligation to obey. Why? The treaty became binding between the two countries because the political power of each country had ratified it and made it binding between them. It became binding upon every citizen because it was binding between the two people. When the treaty is revoked, then it ceases, of course, to be binding between the two people. It ceases to be binding upon the individual citizens of each country.

Now, then, the treaty being revoked, what is the remedy? If it is done in bad faith; if it is done without sufficient cause, the only certain result will be political infamy. The nation that breaks its treaties without cause is disgraced in the eyes of civilized man. War may result, but the treaty, nevertheless, would be dissolved, and the citizens released from all obligations to obey it. When, then, one of these States revokes the treaty, as it is called in our platform—because the second Kentucky resolution says that it is a compact under the style and title of a Constitution for the United States, to which each State acceded as a State, and a compact between nations is a treaty—if, then, one of these States shall revoke that treaty, resume all the powers which she had delegated to the Federal Government, and vest them in her own State government, that very instant, I say, the State is, by operation of law, out of the Union; her citizens cease to owe obedience to the laws of the United States; and she is, to all intents and purposes, a foreign power. This Government can declare war if it sees fit, because it has the war-making power. The question, then, arises, should it declare war? The answer must be found in the breast of each man who is authorized to administer the powers of this Government.

I say, then, a State has a right, with or without cause, to withdraw; that this Government can, with or without cause, declare war. I say, when a State has withdrawn she is out of the Union, and her citizens cease to owe obedience to the laws of this Government; and when this Government has declared war, with or without reason, that war exists, and all citizens found fighting under the banner of the State to which they owe their allegiance, must be treated as prisoners of war, if taken in battle; those who are found in the ranks of the enemy will be treated as traitors, and executed by the authorities of the States which they have traitorously taken up arms against.

These are my views upon the subject, and as the President has been vague, as he has expressed opinions upon both sides, I felt it necessary to say thus much upon that subject.

The Senator from Georgia, in speaking of the States that were going to resume the powers which had been delegated, alluded to my own State. I have no apprehension, sir, that the dagger of a Brutus will relieve us from what he regards as an incubus upon that State. I think that that people are not in the habit of committing acts of assassination. When they shed blood, it is in a fair fight. It may be that those people will be driven to revolution. It may be that if their Legislature is not called, they will meet in primary assembly, and of their own accord appoint delegates to a convention; and when they have done that, it will be for States which they offer to confederate with to decide whether they have a *de facto* government or not. A government *de jure* cannot be so formed, I know. But that violence will be offered to any individual, I do not believe; nor do I believe that the Governor of that State will long persist in refusing to allow the people themselves to be heard, and to declare whether they desire to remain longer confederated with abolition States.

Now, this matter of war has been talked of this morning. I have no

threats to make. The fact is, like Sempronius, my thoughts are turned on peace. I do not think one of these cotton States, or even one of the tobacco States, withdrawing from this Union will be any cause of war. If it is, or is not, this Government can declare war; and I judge that the gentlemen upon the other side of the Chamber hardly suppose that we will be stopped in our course by any apprehension that war will be the result. I think not. Surely we do not expect to make war on them. We intend to assert only that great principle which is set forth in a document for which they have such high admiration—I mean the Declaration of Independence—that every community has a right to live under such form of government as suits it. If this Government does not suit us, we will leave it. When we leave it, we will not leave it as rebels, nor as traitors, nor irregularly. But the State governments will call conventions; the people will be heard; they will vote; and unless a large majority of the people of each one of these States are in favor of resuming the powers they will not be resumed. When a large number of the people of any one of these States shall conclude that they will live more happily or more prosperously under another government, they will assert that right by reforming their constitution, and erecting another Government upon the ruins of the one which they have destroyed.

I regretted much to see in the message the doctrine set forth that a State had not the right, constitutionally, to secede, and the further error fallen into by the President, that this doctrine was one of late origin. I hold in my hand, sir, Elliott's Debates, in which the ratifications of the different States are printed; and it seems that when New York came to ratify the Constitution—there being very great doubt as to the expediency of forming a confederation such as was proposed by this Constitution, and there being bitter hostility on the part of many, there being many doubts as to how the new Government would operate—the people of New York, by their deputies assembled in convention, in the very articles of ratification, declared explicitly, in these words:

"That the powers of Government may be reassumed by the people, whensoever it shall become necessary to their happiness; that every power, jurisdiction, and right, which is not by the said Constitution clearly delegated to the Congress of the United States, or the departments of the Government thereof, remains to the people of the several States, or to their respective State governments, to whom they may have granted the same; and that those clauses in the said Constitution, which declare that Congress shall not have or exercise certain powers, do not imply that Congress is entitled to any powers not given by the said Constitution; but such clauses are to be construed either as exceptions to certain specified powers, or as inserted merely for greater caution."—*Elliott's Debates on Federal Constitution*, 1787, vol. 1, p. 361.

Now, I ask any Senator, upon either side of this floor, what is the plain rule of construing contracts? If a partnership is about to be entered into by individuals, and they refer it to an attorney, who is to draw up the articles of agreement, and when they come to sign it, and after it has been signed by some, one of the parties inserts above his signature an additional qualification, is there a court of justice in a civilized nation that will not hold that that new stipulation is as much a part of the compact as if it had been inserted in the body of it? Does it not inure to the benefit of the party who has inserted it? Is it not part of the compact which he has signed? Does it not inure to the benefit of every other party who has signed that compact? It is a plain principle of law. Then, when this Constitution was draughted by the convention, the delegates or deputies to which were appointed by the different States, and they sent it to be ratified by the conventions of the different States to become binding between those States, the convention of New York, before they would ratify it, in the very articles of ratification, declared explicitly and expressly that they re-



served to themselves the right to reassume the powers therein delegated whenever it should be necessary to their happiness. Then I say that, according to the law of nations, each one of these States has a right to secede, and the right would be a perfect one without any reservation, either in the ratifications or in the Constitution itself. But I go further: I say that though this right was complete and perfect in itself, yet when New York came to ratify she made that explicit about which a quibble might have been raised between lawyers; and that New York having reserved to herself the right to reassume the powers therein delegated whenever it became necessary to her happiness, that became a perfect constitutional right on the part of New York, and it became also a perfect constitutional right on the part of every other State, which, either previously or subsequently to that time, became a party to the compact.

Now, entertaining the views that I do, it is not at all necessary for me to go into any explanation as to why it is, that the State of Texas intends to dissolve her connection with the other States. I heard this morning a letter read, which was written by one of the northwestern Senators—I do not know which—wherein he talked about having bought us and owning us. Well, sir, when we get out of the Union, I suppose that the guarantee clause for the delivery of those to whom other persons have claim will hardly apply; but if that Senator should suppose that it does, I trust that he will come to claim those who have escaped from service and labor on behalf of those to whom it is due; I trust that he may be sent down as the commissioner. This sort of talking can produce no good. The people of Florida are purchased, the people of Louisiana are purchased, the people of Texas are purchased, and we are not to be permitted to live under such a government as we see fit! Do they propose to irritate us still more? It can produce no such effect upon me. I feel that perfect inexplicable stillness which a man always does when he feels that he is perfectly secure. It is only when you insult or wrong a man, and refuse him satisfaction, that he feels irritation. When you have offered to give him satisfaction, the hatred passes from his heart, and he looks to the time when he is to balance the account and settle it up. Now, sir, if I doubted as to whether the people of the State in which I live would submit to black Republican rule or not, I might feel some degree of irritation; but knowing, as I do, that, as soon as those people can get into convention—and the difference of a week or a month is but little—they will revoke the ratification of the Constitution, and again assume their position of separate nationality, and govern themselves by such laws as they see fit; knowing and feeling that, I am not at all disturbed by the presence of these Senators upon the other side, or by any idle vaporings that they may indulge in. All this will come about in good time. State after State will go out of the Union. When you have a working majority, you can declare war against us if you see fit; if you do not, probably a new treaty will be entered into between the high contracting parties—one of peace and amity, when we have revoked that of common defence and general welfare. We choose, at least so far as I am concerned, to give no reason for this high sovereign act. We are the judges; and when we choose to revoke the ratification of this Constitution, we will do it; and if you choose to declare war, we shall not object. The right is perfect on both sides; and each will exercise its own discretion as to the expediency of the act.

While I do not intend to go into any recapitulation of the wrongs that we have suffered, and the dangers that we are about to incur by submitting longer to our present condition, I will deny a single proposition of the Senator from New Hampshire; which is, that we are attempting to reverse the rule that a majority should govern. Now, sir, I admit that a constitutional majority has a right to govern; and I would never have thought of

resisting the inauguration of any President who was elected by a constitutional majority. I know that there is much truth, there is much philosophy in Dogberry's saying, "An two men ride of a horse, one must ride behind;" and if we proposed to remain in this Union, we should undoubtedly submit to the inauguration of any man who was elected by a constitutional majority. We propose nothing of that sort. We simply say that a man who is distasteful to us has been elected, and we choose to consider that as a sufficient ground for leaving the Union, and we intend to leave the Union. Then, if you desire it, bring us back. When you undertake that and have accomplished it, you may be like the man who purchased the elephant—you may find it rather difficult to decide what you will do with the animal. [Laughter.]

I had intended, sir, to go somewhat into detail in discussing the propositions of the message; but I shall forbear to do it. There is no proposition now before us to print any additional numbers; and in common courtesy to the executive department, I suppose that we should let the ordinary number be published. There is one matter in the message in reference to which, at the proper time, I shall introduce a resolution, in order to prevent any bad effects which may flow from it—I allude to the portion of the message in which the President speaks of having sent orders to the officers commanding the forts at Charleston to stand on the defensive. I wish to know the extent of those orders; and I wish to know that, in order that we may now provide for the evil which he may precipitate upon us. The people of South Carolina—and I speak of them simply because they have no Representative on this floor—are a law-abiding people. They are not in the habit of having mobs in that country. They propose to meet in convention—that convention being called by the government of the State; and I entertain no doubt that that convention will pass a solemn ordinance revoking the ratification of the treaty which binds them to the other States. In the mean time, they, as a matter of course, will not attempt to interfere, by force or otherwise, with any Federal troops who may be within the limits of the State; but I say to Senators—and I wish it had been said to the President of the United States—that if, after that State has withdrawn from the Union, and a sufficient time has been given to this Government to withdraw its troops from those forts, this Government shall authoritatively deny to that people the right of self-government, and attempt to keep hostile armies within the borders of that State, those forts will be taken, and blood will flow. The President, in his message, says there is no power on the part of this Government to keep the Union together by force; and yet, in the very same breath, he says that he will collect the revenues in the port of Charleston even after the State has seceded. At least, so I understand his message. He says that there can be no conflict between the Federal judicial power and the authorities or people of the State, because he has no judiciary there. Is there anything to prevent him from appointing a judge? Is there anything to prevent him from appointing a marshal?

Mr. LANE. I beg pardon of the Senator; but I think he is making a mistake in relation to the message; and I am sure he would not do injustice to the President. I do not understand the President to say that he will collect duties after South Carolina shall secede. I only mention it that the Senator may make the correction.

Mr. WIGFALL. I confess, sir, that I do not understand it; and the more I read it the less do I comprehend it. In one clause, the President says:

"In order to justify a resort to revolutionary resistance, the Federal Government must be guilty of a 'deliberate, palpable, and dangerous exercise' of powers not granted by the Constitution." \* \* \* "Reason, justice, a regard for the Constitution, all require that we shall wait for some overt and dangerous act on the part of the President elect before resorting to such a remedy."



In another clause, after stating that the northern Legislatures have attempted to nullify the fugitive slave law, and have defeated its operation, and have continued this course, and that they should repeal these obnoxious laws, he continues by declaring that, if they do not—

“In that event the injured States, after having first used all peaceful and constitutional means to obtain redress, would be justified in revolutionary resistance to the Government of the Union.”

Thus, in one clause, he distinctly declares that, unless the Government of the Union itself shall commit some act of aggression, they have no cause for resisting its authority; and in the next, that if those States do not repeal their obnoxious laws, then resistance to the Government of the Union is to be the remedy. In another clause, he says:

“In order to justify secession as a constitutional remedy, it must be on the principle that the Federal Government is a mere voluntary association of States, to be dissolved at pleasure by any one of the contracting parties. If this be so, the Confederacy is a rope of sand, to be penetrated and dissolved by the first adverse wave of public opinion in any of the States. In this manner our thirty-three States may resolve themselves into as many petty, jarring, and hostile Republics, each one retiring from the Union, without responsibility, whenever any sudden excitement might impel them to such a course. By this process a Union might be entirely broken into fragments in a few weeks, which cost our forefathers many years of toil, privation, and blood to establish.”

There it is distinctly denied that this is a voluntary association of States; and yet, in another clause, he says:

“The fact is that our Union rests upon public opinion, and can never be cemented by the blood of its citizens shed in civil war. If it cannot live in the affections of the people, it must one day perish. Congress possess many means of preserving it by conciliation; but the sword was not placed in their hand to preserve it by force.”

I say, therefore, that I do not really comprehend what the meaning of the President is; but on one subject I think I do, and that is as to collecting revenues. He says distinctly that when the judicial officers have all resigned, there is no possible mode of administering justice there. I do not comprehend that, because I think he could appoint other judges and other marshals, or could recommend Congress to make the State of South Carolina a part of the district of Georgia or of North Carolina; but he then goes on, and says:

“The same insuperable obstacles do not lie in the way of executing the laws for the collection of the customs. The revenue still continues to be collected, as heretofore, at the custom-house in Charleston; and should the collector unfortunately resign, a successor may be appointed to perform this duty.”

Where the difficulty of appointing a successor to the judge, and not to the collector? Then he goes on:

“Then, in regard to the property of the United States in South Carolina. This has been purchased for a fair equivalent, ‘by the consent of the Legislature of the State,’ ‘for the erection of forts, magazines, arsenals,’ &c., and over these the authority ‘to exercise exclusive legislation’ has been expressly granted by the Constitution to Congress. It is not believed that any attempt will be made to expel the United States from this property by force; but if in this I should prove to be mistaken, the officer in command of the forts has received orders to act strictly on the defensive. In such a contingency, the responsibility for consequences would rightly rest upon the head of the assailants.”

I then, sir, removing the brush from the way as well as I can, and beating about through this labyrinth and trying to find out the views of the President, have come to the conclusion that he believes it is impossible to organize Federal courts in South Carolina, or enforce the decisions of judicial tribunals there; but that whether the State secedes or not, he has the power to collect the customs there, and that he has the power to hold the forts, and that it is his purpose to do that thing. Now, as I have said, I shall introduce a resolution at an early moment to ascertain what are the

orders that have gone from the War Department to the officers in command of those forts; for while the President seems desirous to preserve this Union, if the construction shall be put upon his message in South Carolina which I put on it, I believe that he will precipitate the very issue which he seems intent to avoid. If this people shall come to the conclusion that this Government does intend ultimately to deny them the right of living under such a form of government as they see fit; if they shall come to the conclusion that this Government intends to keep them in the Union by the power of the sword; if they shall come to the conclusion that they are no longer freemen, that they cannot look to their own State government for protection, that they have no means of asserting the right of self-government except that which belongs to their negroes or to the serfs of Russia; if they believe that this Government will hold those forts and collect revenues from them after they have ceased to be one of the States of this Union, my judgment is, that the moment they become satisfied of that fact, they will take the forts, and blood will then begin to flow.

It is, therefore, important that there should be a construction put upon this message; it is important that it should be known what the President means; and if he intends to carry out that policy, or this Congress intends to do it—when that is made manifest, I, for one, would urge forbearance no longer. Frederick the Great, on one occasion, when he had trumped up an old title to some of the adjacent territory, quietly put himself in possession and then offered to treat. Were I a South Carolinian, as I am a Texan, and I knew that my State was going out of the Union, and that this Government would attempt to use force, I would, at the first moment that that fact became manifest, seize upon the forts and the arms and the munitions of war, and raise the cry “to your tents, oh Israel, and to the God of battles be this issue.”

Mr. LANE. I only desire to read that part of the President's message in regard to which I interrupted my good friend from Texas. I do not understand the President to say that he contemplates collecting revenue in a foreign port, or in South Carolina after she shall have gone out of the Union. After enumerating the reasons why the laws of the United States cannot now be executed in South Carolina, owing to the resignation of the officers, the President says:

“The same insuperable obstacles do not lie in the way of executing the laws for the collection of the customs. The revenue still continues to be collected, as heretofore, at the custom-house in Charleston; and should the collector unfortunately resign, a successor may be appointed to perform this duty.”

That is, for the present. I take it for granted that the President does not hold that he would have the right to collect revenue in a foreign port, or in a port of another country. But let this matter be as it may, I will say that the President has arrived at a logical, sensible, and correct conclusion, when he says there is no power in this Government that can authorize the use of force against a State. I do not understand him as the Senator does; but if he is wrong on other matters, on this great principle he is right. This Government has no power to hold a State in this Union by force. No sensible man would undertake to hold it together in that way; and I will say now, sir, that that man who shall inaugurate civil war by undertaking to hold it together by force, will be the greatest murderer that ever disgraced the form of man, and will go down to his grave covered with the curses of Heaven from his head to his heels, besides the curses of thousands of widows and orphans. No man, I trust, will ever undertake in this country to use force towards a State; and all that the President has said on that subject, I most heartily indorse.